

ASSEMBLY BILL

No. 2718

Introduced by Assembly Member Adams

February 19, 2010

An act to amend Sections 14571.2, 14571.8, and 14581 of, and to add Sections 14526.8, 14571.6.5, 14571.6.6, and 14571.6.7 to, the Public Resources Code, relating to recycling, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2718, as introduced, Adams. Recycling: beverage containers: recycling centers.

(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state to the Division of Recycling in the Department of Resources Recycling and Recovery. The division is required to deposit those amounts in the California Beverage Container Recycling Fund. Existing law defines “convenience zone” for the purposes of the act and requires that every convenience zone is to be served by at least one certified recycling center, with specified operating hours. Existing law imposes specified requirements upon dealers located in a convenience zone that is not served by a recycling center, including that the dealer redeem beverage containers at the dealer’s location when the dealer is open for business.

This bill would define the term “unserved convenience zone” and would require the department to provide assistance and incentives to reduce the number of unserved convenience zones to less than 5% of total convenience zones by January 1, 2012. The bill would exempt,

until December 31, 2011, a dealer from the requirement to redeem beverage containers. The bill would make a dealer meeting certain requirements eligible for the payment of handling fees, thereby making an appropriation.

The bill would permit the division to authorize an operator of a certified recycling center to be open for business less than 30 hours per week, but not less than 20 hours per week, if the recycling center is located in an unserved convenience zone, as defined, that has been unserved for at least 6 continuous months.

(2) Under existing law, the money in the fund is continuously appropriated to the division to pay, among other things, handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. Existing law prohibits the division from making handling fee payments to more than one certified recycling center in a convenience zone.

This bill would permit the division to authorize additional certified recycling centers to be eligible for handling fees and to increase the amount of the handling fee, thereby making an appropriation.

(3) Existing law, provides that after making payments of refund values and administrative fees, the remaining moneys in the California Beverage Container Recycling Fund are continuously appropriated to the division for expenditure for designated programs, grants, and fee payments. If the division determines there are insufficient funds to make these payments, the department is required to reduce all payments proportionally, after notifying the appropriate policy and fiscal committees of the Legislature.

This bill would repeal the requirement that the division reduce the payments in that manner. Since the bill would revise the conditions under which funds are expended from a continuously appropriated fund, the bill would make an appropriation.

(4) Existing law authorizes the division to make payments to local agencies for beverage container recycling and litter cleanup activities.

This bill would authorize the division to withhold these funds from a local agency if the department determines that the agency has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a certain land use policy. The bill would also delete obsolete provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 14526.8 is added to the Public Resources Code, to read:

14526.8. "Unserved convenience zone" means a convenience zone where there is not in operation a certified recycling center or other location that meets the requirements of subdivision (a) of Section 14571, and where the zone is otherwise not exempt pursuant to Section 14571.8.

SEC. 2. Section 14571.2 of the Public Resources Code is amended to read:

14571.2. (a) The department shall continuously assist dealers and recyclers to establish certified recycling locations within each convenience zone. This assistance includes, but is not limited to, providing information to companies and organizations interested in operating recycling in the convenience zone; providing dealers with names of prospective recyclers for the convenience zone and providing recyclers with the names of dealers in need of a recycler for a convenience zone; providing dealers and recyclers with information on grants, advertising funds, and other resources available; and providing recyclers with advice regarding appearance and image of the recycling center and the efficient handling and transportation of recycled beverage containers.

(b) *The department shall provide assistance and incentives to reduce the number of unserved convenience zones to less than 5 percent of the total number of convenience zones by January 1, 2012.*

(c) (1) *Notwithstanding Section 14571.6, for any convenience zone that was unserved on July 1, 2009, the obligation of dealers in that convenience zone to redeem empty beverage containers in the store shall be suspended until December 31, 2011.*

(2) *Notwithstanding Section 14585, a dealer that chooses to redeem empty beverage containers inside the store shall be eligible to receive handling fees pursuant to Section 14585 and a processor shall pay refund values, administrative costs, and processing payments to the dealer pursuant to subdivision (a) of Section 14573.5 in the same manner as a recycling center operating in compliance with Section 14571.*

SEC. 3. Section 14571.6.5 is added to the Public Resources Code, to read:

1 14571.6.5. (a) Notwithstanding Section 14571, the department
2 may allow the operator of a certified recycling center to be open
3 for business for less than 30 hours per week, but not less than 20
4 hours per week, if the certified recycling center is located in a
5 convenience zone that has been unserved for at least six continuous
6 months, and the convenience zone is identified by the department
7 as an unserved convenience zone.

8 (b) A certified recycling center that is authorized by the
9 department pursuant to subdivision (a) shall be eligible to apply
10 for handling fees pursuant to Section 14585, and a processor shall
11 pay refund values, administrative costs, and processing payments
12 to the certified recycling center pursuant to subdivision (a) of
13 Section 14573.5 in the same manner as to a certified recycling
14 center operating in compliance with Section 14571.

15 SEC. 4. Section 14571.6.6 is added to the Public Resources
16 Code, to read:

17 14571.6.6. Notwithstanding Sections 14571 and 14585, the
18 department may authorize the operator of a certified recycling
19 center to be eligible to apply for the payment of handling fees if
20 the certified recycling center is located in a convenience zone that
21 has been unserved for at least six continuous months, the certified
22 recycling center is not located in a supermarket site, and the
23 convenience zone in which the certified recycling center is located
24 is identified by the department as an unserved convenience zone.

25 SEC. 5. Section 14571.6.7 is added to the Public Resources
26 Code, to read:

27 14571.6.7. Notwithstanding Section 14585, the department
28 may authorize the operator of a certified recycling center to be
29 eligible to be paid, for a period of 24 months, a handling fee in an
30 amount equivalent to 120 percent of the amount of the handling
31 fee paid on January 1, 2011, if the certified recycling center is
32 located in a convenience zone that has been unserved for at least
33 six continuous months, and the convenience zone is identified by
34 the department as an unserved convenience zone.

35 SEC. 6. Section 14571.8 of the Public Resources Code is
36 amended to read:

37 14571.8. (a) ~~No~~A lease entered into by a dealer after January
38 1, 1987, ~~may~~ shall not contain a leasehold restriction that prohibits
39 or results in the prohibition of the establishment of a recycling
40 location.

(b) The director may grant an exemption from the requirements of Section 14571 for an individual convenience zone only after the department solicits public testimony on whether or not to provide an exemption from Section 14571. The solicitation process shall be designed by the department to ensure that operators of recycling centers, dealers, and members of the public in the jurisdiction affected by the proposed exemption are aware of the proposed exemption. After evaluation of the testimony and any field review conducted, the department shall base a decision to exempt a convenience zone on one, or any combination, of the following factors:

(1) The exemption will not significantly decrease the ability of consumers to conveniently return beverage containers for the refund value to a certified recycling center redeeming all material types.

(2) Except as provided in paragraph (5), the nearest certified recycling center is within a reasonable distance of the convenience zone being considered ~~from~~ *for* exemption.

(3) The convenience zone is in the area of a curbside recycling program that meets the criteria specified in Section 14509.5.

(4) The requirements of Section 14571 cannot be met in a particular convenience zone due to local zoning or the dealer's leasehold restrictions for leases in effect on January 1, 1987, and the local zoning or leasehold restrictions are not within the authority of the department and the dealer. However, any lease executed after January 1, 1987, shall meet the requirements specified in subdivision (a).

(5) The convenience zone has redeemed less than 60,000 containers per month for the prior 12 months and, notwithstanding paragraph (2), a certified recycling center is located within one mile of the convenience zone that is the subject of the exemption.

(c) The department shall review each convenience zone in which a certified recycling center was not located on January 1, 1996, to determine the eligibility of the convenience zone under the exemption criteria specified in subdivision (b).

(d) The total number of exemptions granted by the director under this section shall not exceed ~~35~~ 45 percent of the total number of convenience zones identified pursuant to this section.

(e) The department may, on its own motion, or upon petition by any interested person, revoke a convenience zone exemption if either of the following occurs:

(1) The condition or conditions that caused the convenience zone to be exempt no longer exists, and the department determines that the criteria for an exemption specified in this section are not presently applicable to the convenience zone.

(2) The department determines that the convenience zone exemption was granted due to an administrative error.

(f) If an exemption is revoked and a recycling center is not certified and operational in the convenience zone, the department shall, within 10 days of the date of the decision to revoke, serve all dealers in the convenience zone with the notice specified in subdivision (a) of Section 14571.7.

(g) An exemption shall not be revoked when a recycling center becomes certified and operational within an exempt convenience zone unless either of the events specified in paragraphs (1) and (2) of subdivision (e) occurs.

SEC. 7. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, ~~and pursuant to subdivision (e),~~ the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

~~(1) (A) On and after July 1, 2005, to June 30, 2006, inclusive, up to thirty-one million dollars (\$31,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(B) On and after July 1, 2006, to June 30, 2007, inclusive, up to thirty-three million dollars (\$33,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(C) On and after July 1, 2007, to June 30, 2008, inclusive, up to thirty-five million dollars (\$35,000,000) may be expended for that fiscal year for the payment of handling fees pursuant to Section 14585.~~

~~(D)~~

(I) For each fiscal year commencing July 1, 2008, the department may expend the amount necessary to make the required

1 handling fee payment pursuant to ~~Section~~ *Sections 14571.2,*
2 *14571.6.5, 14571.6.6, 14571.6.7, and 14585.*

3 (2) Fifteen million dollars (\$15,000,000) shall be expended
4 annually for payments for curbside programs and neighborhood
5 dropoff programs pursuant to Section 14549.6.

6 (3) (A) Fifteen million dollars (\$15,000,000), plus the
7 proportional share of the cost-of-living adjustment, as provided in
8 subdivision (b), shall be expended annually in the form of grants
9 for beverage container litter reduction programs and recycling
10 programs issued to either of the following:

11 (i) Certified community conservation corps that were in
12 existence on September 30, 1999, or that are formed subsequent
13 to that date, that are designated by a city or a city and county to
14 perform litter abatement, recycling, and related activities, if the
15 city or the city and county has a population, as determined by the
16 most recent census, of more than 250,000 persons.

17 (ii) Community conservation corps that are designated by a
18 county to perform litter abatement, recycling, and related activities,
19 and are certified by the California Conservation Corps as having
20 operated for a minimum of two years and as meeting all other
21 criteria of Section 14507.5.

22 (B) Any grants provided pursuant to this paragraph shall not
23 comprise more than 75 percent of the annual budget of a
24 community conservation corps.

25 ~~(4) (A) On or after July 1, 2007, until June 30, 2008, for only~~
26 ~~that fiscal year, up to twenty million dollars (\$20,000,000) may~~
27 ~~be expended in the form of competitive grants issued to community~~
28 ~~conservation corps that are designated by a city or county, and that~~
29 ~~meet both of the following criteria:~~

30 ~~(i) Are certified by the California Conservation Corps as having~~
31 ~~operated for a minimum of two years.~~

32 ~~(ii) Meet all other requirements under Section 14507.5.~~

33 ~~(B) The department shall prepare and adopt criteria and~~
34 ~~procedures for evaluating grant applications on a competitive basis.~~
35 ~~Eligible activities for the use of these funds shall include~~
36 ~~developing new projects, or enhancing or assisting existing~~
37 ~~projects, to increase beverage container recycling and increasing~~
38 ~~the quality of recycled material at the following locations:~~

39 ~~(i) Multifamily dwellings.~~

40 ~~(ii) Schools.~~

1 ~~(iii) Commercial, state, and local government buildings.~~

2 ~~(iv) Bars, restaurants, hotels, and lodging establishments, and~~
3 ~~entertainment venues.~~

4 ~~(v) Parks and beaches.~~

5 ~~(C) Any grants provided pursuant to this paragraph shall not~~
6 ~~comprise more than 75 percent of the annual budget of a~~
7 ~~community conservation corps.~~

8 ~~(D) Any grants provided pursuant to this paragraph shall support~~
9 ~~one-time capital improvement projects and shall not be used to~~
10 ~~support ongoing staff activities.~~

11 ~~(E) Any grant funds appropriated pursuant to this paragraph~~
12 ~~that have not been awarded to a grantee prior to the end of the~~
13 ~~2007-08 fiscal year shall revert to the fund.~~

14 ~~(5)~~

15 (4) (A) Ten million five hundred thousand dollars (\$10,500,000)
16 may be expended annually for payments of five thousand dollars
17 (\$5,000) to cities and ten thousand dollars (\$10,000) for payments
18 to counties for beverage container recycling and litter cleanup
19 activities, or the department may calculate the payments to counties
20 and cities on a per capita basis, and may pay whichever amount
21 is greater, for those activities.

22 (B) Eligible activities for the use of these funds may include,
23 but are not necessarily limited to, support for new or existing
24 curbside recycling programs, neighborhood dropoff recycling
25 programs, public education-promoting beverage container
26 recycling, litter prevention, and cleanup, cooperative regional
27 efforts among two or more cities or counties, or both, or other
28 beverage container recycling programs.

29 (C) These funds may not be used for activities unrelated to
30 beverage container recycling or litter reduction.

31 (D) To receive these funds, a city, county, or city and county
32 shall fill out and return a funding request form to the Department
33 of Conservation. The form shall specify the beverage container
34 recycling or litter reduction activities for which the funds will be
35 used.

36 (E) The Department of Conservation shall annually prepare and
37 distribute a funding request form to each city, county, or city and
38 county. The form shall specify the amount of beverage container
39 recycling and litter cleanup funds for which the jurisdiction is
40 eligible. The form shall not exceed one double-sided page in length,

1 and may be submitted electronically. If a city, county, or city and
2 county does not return the funding request form within 90 days of
3 receipt of the form from the department, the city, county, or city
4 and county is not eligible to receive the funds for that funding
5 cycle.

6 (F) (i) For the purposes of this paragraph, per capita population
7 shall be based on the population of the incorporated area of a city
8 or city and county and the unincorporated area of a county. The
9 department may withhold payment to any city, county, or city and
10 county that has prohibited the siting of a supermarket site, caused
11 a supermarket site to close its business, or adopted a land use policy
12 that restricts or prohibits the siting of a supermarket site within its
13 jurisdiction.

14 (ii) *The department shall withhold all or a portion of the*
15 *payment to a city, county, or city and county for which the*
16 *department determines that the city, county, or city and county*
17 *has prohibited the siting of a supermarket site, caused a*
18 *supermarket site to close its business, or adopted a land use policy*
19 *that restricts or prohibits the siting of a supermarket site within*
20 *its jurisdiction and that this action resulted in an unserved*
21 *convenience zone.*

22 ~~(6)~~

23 (5) One million five hundred thousand dollars (\$1,500,000) may
24 be expended annually in the form of grants for beverage container
25 recycling and litter reduction programs.

26 ~~(7)~~

27 (6) (A) The department shall expend the amount necessary to
28 pay the processing payment established pursuant to Section 14575.
29 The department shall establish separate processing fee accounts
30 in the fund for each beverage container material type for which a
31 processing payment and processing fee are calculated pursuant to
32 Section 14575, or for which a processing payment is calculated
33 pursuant to Section 14575 and a voluntary artificial scrap value is
34 calculated pursuant to Section 14575.1, into which account shall
35 be deposited both of the following:

36 (i) All amounts paid as processing fees for each beverage
37 container material type pursuant to Section 14575.

38 (ii) Funds equal to the difference between the amount in clause
39 (i) and the amount of the processing payments established in
40 subdivision (b) of Section 14575, and adjusted pursuant to

1 paragraph (2) of subdivision (c) of, and subdivision (f) of, Section
2 14575, to reduce the processing fee to the level provided in
3 subdivision (f) of Section 14575, or to reflect the agreement by a
4 willing purchaser to pay a voluntary artificial scrap value pursuant
5 to Section 14575.1.

6 (B) Notwithstanding Section 13340 of the Government Code,
7 the moneys in each processing fee account are hereby continuously
8 appropriated to the department for expenditure without regard to
9 fiscal years, for purposes of making processing payments pursuant
10 to Section 14575.

11 ~~(8)~~

12 (7) Up to five million dollars (\$5,000,000) may be annually
13 expended by the department for the purposes of undertaking a
14 statewide public education and information campaign aimed at
15 promoting increased recycling of beverage containers.

16 ~~(9) Until January 1, 2008, the department may expend up to~~
17 ~~five million dollars (\$5,000,000) for the purposes of undertaking~~
18 ~~a statewide public education and information campaign aimed at~~
19 ~~promoting increased recycling of beverage containers that meets~~
20 ~~both of the following requirements:~~

21 ~~(A) The public education and information campaign is~~
22 ~~multimedia and includes print, radio, and television.~~

23 ~~(B) The public education and information campaign is~~
24 ~~multilingual.~~

25 ~~(10)~~

26 (8) Up to fifteen million dollars (\$15,000,000) may be expended
27 annually by the department for quality incentive payments for
28 empty beverage containers pursuant to Section 14549.1.

29 ~~(11)~~

30 (9) Up to twenty million dollars (\$20,000,000) may be expended
31 annually by the department, until January 1, 2012, to issue grants
32 for recycling market development and expansion-related activities
33 aimed at increasing the recycling of beverage containers, including,
34 but not limited to, the following:

35 (A) Research and development of collecting, sorting, processing,
36 cleaning, or otherwise upgrading the market value of recycled
37 beverage containers.

38 (B) Identification, development, and expansion of markets for
39 recycled beverage containers.

1 (C) Research and development for products manufactured using
2 recycled beverage containers.

3 (D) Research and development to provide high-quality materials
4 that are substantially free of contamination.

5 (E) Payments to California manufacturers who recycle beverage
6 containers that are marked by resin type identification code “3,”
7 “4,” “5,” “6,” or “7,” pursuant to Section 18015.

8 ~~(12)~~

9 (10) Up to ten million dollars (\$10,000,000) may be transferred
10 on a one-time basis by the department to the Recycling
11 Infrastructure Loan Guarantee Account, for expenditure pursuant
12 to Section 14582.

13 ~~(13)~~

14 (11) Up to ten million dollars (\$10,000,000) may be expended
15 annually by the department for the payment of recycling incentive
16 payments pursuant to Section 14549.7 until payments for eligible
17 beverage containers redeemed or collected for recycling on or
18 before December 31, 2009, have been paid.

19 ~~(14)~~

20 (12) Up to five million dollars (\$5,000,000) may be expended
21 annually by the department for market development payments for
22 empty plastic beverage containers pursuant to Section 14549.2,
23 until January 1, 2012.

24 ~~(15) Up to five million dollars (\$5,000,000) may be expended,~~
25 ~~by the department, on a one-time basis beginning on January 1,~~
26 ~~2007, in coordination with the Department of Parks and Recreation~~
27 ~~for the purposes of installing source separated beverage container~~
28 ~~recycling receptacles at each of the state parks, starting with those~~
29 ~~parks that have the highest day use.~~

30 ~~(16) Up to five million dollars (\$5,000,000) may be expended,~~
31 ~~from January 1, 2007, to January 1, 2008, to provide grants to local~~
32 ~~governments or nonprofit agencies to place multifamily housing~~
33 ~~source separated beverage container recycling receptacles in~~
34 ~~low-income communities.~~

35 ~~(17) (A) Up to fifteen million dollars (\$15,000,000) may be~~
36 ~~expended from January 1, 2008, to January 1, 2009, to provide~~
37 ~~grants to place source separated beverage container recycling~~
38 ~~receptacles in multifamily housing.~~

39 ~~(B) Notwithstanding subdivision (b) of Section 14580, the~~
40 ~~amount of one hundred ninety-eight thousand dollars (\$198,000)~~

1 may be expended by the department from the fund, on a one-time
2 basis, for the administrative costs of implementing the grant
3 program established by subparagraph (A).

4 (18) (A) Up to twenty million dollars (\$20,000,000) may be
5 expended from July 1, 2009, to January 1, 2012, inclusive, for
6 either of the following:

7 (i) Grants for beverage container recycling and litter reduction
8 programs that emphasize the greatest and most effective collection
9 of beverage containers per dollar spent to ensure the program's
10 performance and accountability.

11 (ii) Focused, regional community beverage container recycling
12 and litter reduction programs that enable the department to more
13 effectively organize the amount and type of resources needed for
14 regional and statewide efforts to increase recycling.

15 (B) The department shall require, as a condition of receiving
16 grant funds pursuant to subparagraph (A), each grant recipient to
17 submit a final report including, but not limited to, the grant
18 recipient's reported volumes of beverage containers recycled,
19 where applicable.

20 (C) On or before July 1, 2014, the department shall publish an
21 evaluation of all grants made pursuant to subparagraph (A). At a
22 minimum, the evaluation shall summarize each final report
23 submitted by each grantee pursuant to subparagraph (B) and assess
24 whether the grantee adequately met the scope and objectives
25 outlined in the grant agreement.

26 (b) The fifteen million dollars (\$15,000,000) amount that is set
27 aside pursuant to paragraph (3) of subdivision (a) is a base amount
28 that the department shall adjust annually to reflect any increases
29 or decreases in the cost of living, as measured by the Department
30 of Labor, or a successor agency, of the federal government.

31 (c) (1) The department shall review all funds on a quarterly
32 basis to ensure that there are adequate funds to make the payments
33 specified in this section and the processing fee reductions required
34 pursuant to Section 14575.

35 (2) If the department determines, pursuant to a review made
36 pursuant to paragraph (1), that there may be inadequate funds to
37 pay the payments required by this section and the processing fee
38 reductions required pursuant to Section 14575, the department
39 shall immediately notify the appropriate policy and fiscal
40 committees of the Legislature regarding the inadequacy.

1 ~~(3) On or before 180 days after the notice is sent pursuant to~~
2 ~~paragraph (2), the department may reduce or eliminate~~
3 ~~expenditures, or both, from the funds as necessary, according to~~
4 ~~the procedure set forth in subdivision (d).~~

5 ~~(d) If the department determines that there are insufficient funds~~
6 ~~to make the payments specified pursuant to this section and Section~~
7 ~~14575, the department shall reduce all payments proportionally.~~

8 ~~(e)~~

9 ~~(d) Prior to making an expenditure pursuant to paragraph (7) of~~
10 ~~subdivision (a), the department shall convene an advisory~~
11 ~~committee consisting of representatives of the beverage industry,~~
12 ~~beverage container manufacturers, environmental organizations,~~
13 ~~the recycling industry, nonprofit organizations, and retailers to~~
14 ~~advise the department on the most cost-effective and efficient~~
15 ~~method of the expenditure of the funds for that education and~~
16 ~~information campaign.~~

17 ~~(f) After setting aside money for the expenditures required~~
18 ~~pursuant to subdivisions (a) and (b) and Section 14580, the~~
19 ~~department may, on and after January 1, 2007, but not after July~~
20 ~~1, 2007, expend remaining moneys in the fund to pay a refund~~
21 ~~value in an amount greater than the refund value established~~
22 ~~pursuant to subdivision (b) of Section 14560.~~